

Federal Defenders
OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

June 21, 2021

VIA ECF

The Honorable Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Trevor McKoy*, 20 CR 229 (JMF)

Dear Judge Furman:

I represent Mr. McKoy who is scheduled to appear before the Court on July 7, 2021 for sentencing. I write with two requests:

First, and with the consent of the government, I ask that Mr. McKoy's sentencing be adjourned by about thirty days. The additional time is needed to respond to the PSR, which includes a Guidelines calculation different than the parties' calculation in the plea agreement. The Probation Department's higher calculation, which Mr. McKoy disputes, is based on a sealed Y.O. conviction. Despite the Court's Order, the records of the Y.O. conviction still have not been disclosed to Mr. McKoy.

In that connection, I also write to ask the Court to order the Probation Department to disclose a copy of Mr. McKoy's *sealed* rap sheet, which documents Mr. McKoy's youthful offender conviction. The *unsealed* rap sheet (which is the only rap sheet available to the government and the defense) does not include Mr. McKoy's Y.O. conviction.

On June 14, 2021, at ECF Doc. No. 63, the Court ordered the Probation Department to provide "a copy of all court records and documentation relating to Mr. McKoy's Youthful Offender conviction." Although the Probation Department produced pre-sentence reports referencing Mr. McKoy's Y.O. conviction, it did not produce a copy of the sealed rap sheet. Importantly, only the sealed rap sheet documents the details regarding the conviction, including the sentence imposed and the dates and location of service of that sentence. These details are necessary in order to dispute the Probation Department's Guidelines calculation.

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According to an email from the Probation Department to defense counsel, it is “not permitted to disclose the rap sheet—irrespective of a court order—because it violates [its] contract with DCJS.” Although I have no first-hand knowledge of the Probation Department’s arrangement with DCJS, I do not believe that its contract with DCJS or any other regulation trumps the Court’s Order. Accordingly and consistent with the Court’s prior order, we ask that the Probation Department disclose Mr. McKoy’s sealed rap sheet and any other records or documentation relating to his youthful offender conviction.

Respectfully submitted,

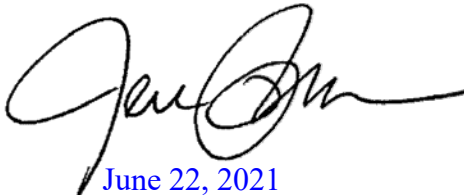
/s/ Julia Gatto
Julia L. Gatto
Assistant Federal Defender
(212) 417-8750

cc: AUSA Thomas Burnett
USPO Stephanie McMahon

Application GRANTED as to the adjournment request. Sentencing is hereby ADJOURNED to August 25, 2021, at 10:30 a.m. Unless and until the Court orders otherwise, the proceeding will be held in person in Courtroom 1105 of the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York.

Application DENIED as to the sealed rap sheet. The Court consulted with the Probation Department and confirmed that its contract with DCJS does indeed preclude disclosure to defense counsel. That said, the Court agrees that the Defendant should be given the information she seeks. To that end, defense counsel should contact Dawn Doyno in the Probation Department to discuss the issue and see if the relevant information can be provided in a different form.

The Clerk of Court is directed to terminate Doc. #65. SO ORDERED.



June 22, 2021